

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EIONNA COLEMAN,

Plaintiff,

Case No.:

Hon.:

vs.

MARCAL BARLOW and
U.S. XPRESS INCORPORATED d/b/a
U.S. XPRESS LEASING,

Defendants.

THE SAM BERNSTEIN LAW FIRM
RONALD S. MARVIN (P43699)
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There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this Court.

COMPLAINT AND JURY DEMAND

NOW COMES the Plaintiff, EIONNA COLEMAN, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, PLLC, by RONALD S. MARVIN, and for her cause of action against the above-named Defendants, MARCAL BARLOW and U.S. XPRESS INCORPORATED d/b/a U.S. XPRESS LEASING, respectfully states unto this Honorable Court as follows:

GENERAL ALLEGATIONS AND
JURISDICTIONAL BASIS UNDER 28 USC §1332(a)(2)

1. Plaintiff, EIONNA COLEMAN, upon information and belief, is a resident of the City of Detroit, County of Wayne, State of Michigan.
2. Defendant, MARCAL BARLOW, upon information and belief, is a resident of the City of Wiggins, County of Stone, State of Missouri.
3. That Defendant, U.S. XPRESS INCORPORATED d/b/a U.S. XPRESS LEASING (hereinafter “U.S. XPRESS”) is a foreign profit corporation located in Chattanooga, Tennessee doing business throughout the State of Michigan and in County of Macomb, State of Michigan, and accepting service by its resident agent 2900 West Road, Ste 500, East Lansing, MI 48823.
4. That upon information and belief, and for all times relevant herein, the Defendant, MARCAL BARLOW, was/is an employee/agent/servant (ostensible or actual) of the Defendant U.S. XPRESS, acting within the course and scope of his employment/agency while doing business within the County of Macomb, State of Michigan.
5. That original injury occurred in the County of Macomb, State of Michigan.
6. That the amount in controversy in this litigation exceeds the sum of Seventy-Five Thousand (\$75,000.00) Dollars exclusive of costs, interest and attorney fees.
7. Jurisdiction is properly vested this Court pursuant to 28 U.S.C. §1332(a)(2).

THE
SAM BERNSTEIN
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A PROFESSIONAL LIMITED
LIABILITY COMPANY

COUNT I
NEGLIGENCE

8. Plaintiff adopts and incorporates by reference each and every allegation contained in the General Allegations of this Complaint as if more specifically set forth herein, word for word and paragraph by paragraph.

9. That on or about the October 21, 2021, Plaintiff, EIONNA COLEMAN, was a passenger of a 2011 Dodge motor vehicle, bearing the Michigan license plate number ELJ5467, being driven in a careful and prudent manner travelling northbound on Gratiot Road.

10. At the aforementioned time and place, the Defendant, MARCAL BARLOW, did operate a 2020 Freightliner motor vehicle, bearing the Oklahoma license plate number 7499K4, and drove in a careless, reckless, and negligent manner with a prohibited left turn from southbound Gratiot Road onto eastbound 12 Mile. By disregarding his controlling red light, as well as the rules of Michigan roadways, he forced the car occupied by your Plaintiff to swerve in the intersection, despite having a clear green light, in an attempt to avoid the collision. This maneuver caused the car to spin out, strike the side of the truck and a nearby telephone pole.

11. That upon information and belief, and for all times relevant herein, the Defendant, MARCAL BARLOW, was/is an employee/agent/servant (ostensible or actual) of the Defendant U.S. XPRESS. acting within the course and scope of his employment/agency while doing business within the County of Macomb, State of Michigan.

12. That at said time and place, Defendant, MARCAL BARLOW, was operating the 2020 Freightliner motor vehicle owned by Defendant US XPRESS, with its express and/or implied knowledge and consent.

COUNT II

INCORPORATION OF OWNER'S/EMPLOYER'S LIABILITY

13. That at all time pertinent hereto, Defendant, U.S. XPRESS, was the owner of the offending vehicle being negligently driver by Defendant, MARCAL BARLOW and as a consequence of its ownership, Defendant U.S. XPRESS bears the legal responsibility pursuant to agent/employer responsibility as well as the Owner's Liability Statute/Act, including but not limited to Michigan Statute MCL 257.401 for the negligent acts/omissions of Defendant, MARCAL BARLOW as hereinafter set forth and described.

14. That it then and there became and was the duty of Defendant, MARCAL BARLOW herein, to drive said motor vehicle with due care and caution in accordance with the statutes of the State of Michigan and the rules of the common law applicable to the operation of motor vehicles, but that notwithstanding said duties, your Defendant, MARCAL BARLOW did negligently breach and violate the same in one or more of the following particulars:

- a. Failing to drive said motor vehicle on the highway at a careful and prudent speed, not greater than was reasonable and proper, having due regard to the traffic, surface and width of the highway and other conditions then and there existing as required by MSA 9.2327;
- b. Failing to keep proper or any lookout for traffic when he knew or should have known that such failure would endanger the life and limb of other persons along and upon said highway;
- c. Failing to have said automobile equipped with brakes adequate to control its movement and stop and hold it as required by MSA 9.2405;
- d. That he drove said motor vehicle in a careless, reckless and negligent manner in violation of MCL 257.626;
- e. That he did negligently engage in improper lane use;
- f. That he did negligently fail to keep proper and safe lookout for other vehicles;
- g. That he did negligently fail to timely perceive and react to other vehicles established in the roadway;

- h. That he did negligently fail to stop and/or slow to avoid impact;
- i. That he did negligently fail to maintain an assured clear distance between vehicles;
- j. In otherwise negligently failing to exert that degree of care, caution, diligence and prudence as would be demonstrated by a reasonably prudent person under the same or similar circumstances; and

15. That he did commit and/or omit other acts of negligence as yet unknown to Plaintiff but which will become known during the course of discovery.

16. That Defendant, U.S. XPRESS, is vicariously liable for the negligent acts and/or omissions of the Defendant, MARCAL BARLOW, by virtue of the terms of agent/employer liability as well as the applicable Owners Liability Statute including but not limited to MCL 257.401.

17. That, as a direct and proximate result of the negligent acts and/or omissions on the part of Defendants, your Plaintiff was caused and will be caused in the future to suffer with severe, grievous and permanent personal injuries, disability, damages, serious impairment of bodily functions and permanent, serious disfigurement, the full extent and character of which are currently unknown but, which will include but, are not necessarily limited to the following:

- a) Injuries to right leg, including a fracture;
- b) Concussion;
- c) Any and all other manners of internal and external injuries;
- d) Pain, especially in back, suffering, discomfort, disability, and extreme physical and emotional suffering;
- e) Severe and continuing embarrassment, humiliation, anxiety, tension and mortification;
- f) Loss of the natural enjoyments of life;
- g) Aggravation of pre-existing conditions;

- h) Damages in excess of those provided under the Plaintiff's Michigan No-Fault Act policy limits including for costs of medical, medical treatment and care, as well as possible excess wage loss;
- i) Costs for medical care, treatment, attendant care lost wages, rehabilitation and recovery including but not limited to future benefits afforded under the Michigan No-Fault Act in excess of Plaintiff's coverage for same; and
- j) Possible reimbursement to Plaintiff's health insurance and/or Medicare/Medicaid health plan for expenditures related to this occurrence.

JURY DEMAND

NOW COMES the Plaintiff, EIONNA COLEMAN, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, by RONALD S. MARVIN, and hereby respectfully demands a trial by jury in the above-entitled cause of action.

WHEREFORE, Plaintiff, EIONNA COLEMAN, prays that this Honorable Court and/or trier of fact award him damages against the Defendants MARCAL BARLOW, and U.S. XPRESS, in whatever amount in excess of Seventy Five Thousand (\$75,000.00) Dollars to which she is found to be entitled to receive, together with costs, interest and attorney fees.

THE SAM BERNSTEIN LAW FIRM

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Dated: February 15, 2022

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